

SECOND REGULAR SESSION

# SENATE BILL NO. 661

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3727S.011

## AN ACT

To repeal sections 115.225, 115.237, 115.249, 115.439, 115.449, and 115.453, RSMo, and to enact in lieu thereof six new sections relating to voting a straight political party ticket.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 115.225, 115.237, 115.249, 115.439, 115.449, and  
2 115.453, RSMo, are repealed and six new sections enacted in lieu thereof, to be  
3 known as sections 115.225, 115.237, 115.249, 115.439, 115.449, and 115.453, to  
4 read as follows:

115.225. 1. Before use by election authorities in this state, the secretary  
2 of state shall approve the marking devices and the automatic tabulating  
3 equipment used in electronic voting systems and may promulgate rules and  
4 regulations to implement the intent of sections 115.225 to 115.235.

5 2. No electronic voting system shall be approved unless it:

6 (1) Permits voting in absolute secrecy;

7 (2) Permits each voter to vote for as many candidates for each office as a  
8 voter is lawfully entitled to vote for;

9 (3) Permits each voter to vote for or against as many questions as a voter  
10 is lawfully entitled to vote on, and no more;

11 (4) Provides facilities for each voter to cast as many write-in votes for  
12 each office as a voter is lawfully entitled to cast;

13 (5) [Permits each voter at a general election to vote for all candidates of  
14 one party by one punch or mark or to vote a split ticket, as a voter desires;

15 (6)] Permits each voter in a primary election to vote for the candidates of  
16 only one party announced by the voter in advance;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17           ~~[(7)]~~ **(6)** Permits each voter at a presidential election to vote by use of a  
18 single punch or mark for the candidates of one party or group of petitioners for  
19 president, vice president and their presidential electors;

20           ~~[(8)]~~ **(7)** Accurately counts all proper votes cast for each candidate and  
21 for and against each question;

22           ~~[(9)]~~ **(8)** Is set to reject all votes, except write-in votes, for any office and  
23 on any question when the number of votes exceeds the number a voter is lawfully  
24 entitled to cast;

25           ~~[(10)]~~ **(9)** Permits each voter, while voting, to clearly see the ballot label;

26           ~~[(11)]~~ **(10)** Has been tested and is certified by an independent authority  
27 that meets the voting system standards developed by the Federal Election  
28 Commission or its successor agency. The provisions of this subdivision shall not  
29 be required for any system purchased prior to August 28, 2002.

30           3. The secretary of state shall promulgate rules and regulations to allow  
31 the use of a computerized voting system. The procedures shall provide for the use  
32 of a computerized voting system with the ability to provide a paper audit  
33 trail. Notwithstanding any provisions of this chapter to the contrary, such a  
34 system may allow for the storage of processed ballot materials in an electronic  
35 form.

36           4. Any rule or portion of a rule, as that term is defined in section 536.010,  
37 RSMo, that is created under the authority delegated in this section shall become  
38 effective only if it complies with and is subject to all of the provisions of chapter  
39 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
40 536, RSMo, are nonseverable and if any of the powers vested with the general  
41 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date  
42 or to disapprove and annul a rule are subsequently held unconstitutional, then  
43 the grant of rulemaking authority and any rule proposed or adopted after August  
44 28, 2002, shall be invalid and void.

115.237. 1. Each ballot printed or designed for use with an electronic  
2 voting system for any election pursuant to this chapter shall contain all questions  
3 and the names of all offices and candidates certified or filed pursuant to this  
4 chapter and no other. As far as practicable, all questions and the names of all  
5 offices and candidates for which each voter is entitled to vote shall be printed on  
6 one page except for the ballot for political party committee persons in polling  
7 places not utilizing an electronic voting system which may be printed separately  
8 and in conformity with the requirements contained in this section. As far as

9 practicable, ballots containing only questions and the names of nonpartisan  
10 offices and candidates shall be printed in accordance with the provisions of this  
11 section, except that the ballot information may be listed in vertical or horizontal  
12 rows. The names of candidates for each office shall be listed in the order in  
13 which they are filed.

14 2. Except as provided in subsection 4 of this section, each ballot shall  
15 have:

16 (1) Each party name printed in capital letters not less than eighteen point  
17 in size;

18 (2) [A circle one-half inch in diameter immediately below each party  
19 name;

20 (3)] The name of each office printed in capital letters not less than eight  
21 point in size;

22 [(4)] (3) The name of each candidate printed in capital letters not less  
23 than ten point in size;

24 [(5)] (4) A small square, the sides of which shall not be less than  
25 one-fourth inch in length, printed directly to the left of each candidate's name and  
26 on the same line as the candidate's name. When write-in votes are authorized  
27 and no candidate's name is to be printed under the name of an office in a party  
28 or nonpartisan column, under the name of the office in the column shall be  
29 printed a square. Directly to the right of the square shall be printed a horizontal  
30 line on which the voter may vote for a person whose name does not appear on the  
31 ballot. When more than one position is to be filled for an office, and the number  
32 of candidates' names under the office in a column is less than the number of  
33 positions to be filled, the number of squares and write-in lines printed in the  
34 column shall equal the difference between the number of candidates' names and  
35 the number of positions to be filled;

36 [(6)] (5) The list of candidates of each party and all nonpartisan  
37 candidates placed in separate columns with a heavy vertical line between each  
38 list;

39 [(7)] (6) A horizontal line extending across the ballot three-eighths of an  
40 inch below the last name or write-in line under each office in such a manner that  
41 the names of all candidates and all write-in lines for the same office appear  
42 between the same horizontal lines. If write-in votes are not authorized, the  
43 horizontal line shall extend across the ballot three-eighths of an inch below the  
44 name of the last candidate under each office;

45 [(8)] (7) In a separate column or beneath a heavy horizontal line under  
 46 all names and write-in lines, all questions;

47 [(9)] (8) At least three-eighths of an inch below all other matter on the  
 48 ballot, printed in ten-point Gothic type, the words "Instructions to Voters"  
 49 followed by directions to the voter on marking the ballot as provided in section  
 50 115.439;

51 [(10)] (9) Printed at the top on the face of the ballot the words "Official  
 52 Ballot" followed by the date of the election and the statement "Instruction to  
 53 Voters: Place an X in the square opposite the name of the person for whom you  
 54 wish to vote."

55 3. As nearly as practicable, each ballot shall be in substantially the  
 56 following form:

57 OFFICIAL BALLOT DATE .....

|    |                                |                                |                                |                                |
|----|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| 58 | REPUBLICAN<br>[O               | DEMOCRATIC<br>O                | THIRD PARTY<br>O               | INDEPENDENT<br>O]              |
| 59 | For President                  | For President                  | For President                  | For President                  |
| 60 | and                            | and                            | and                            | and                            |
| 61 | Vice President                 | Vice President                 | Vice President                 | Vice President                 |
| 62 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 63 |                                |                                |                                |                                |
| 64 | For                            | For                            | For                            | For                            |
| 65 | United States                  | United States                  | United States                  | United States                  |
| 66 | Senator                        | Senator                        | Senator                        | Senator                        |
| 67 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 68 | For Governor                   | For Governor                   | For Governor                   | For Governor                   |
| 69 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 70 | For Lieutenant                 | For Lieutenant                 | For Lieutenant                 | For Lieutenant                 |
| 71 | Governor                       | Governor                       | Governor                       | Governor                       |
| 72 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 73 | For Secretary                  | For Secretary                  | For Secretary                  | For Secretary                  |
| 74 | of State                       | of State                       | of State                       | of State                       |
| 75 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 76 | For Treasurer                  | For Treasurer                  | For Treasurer                  | For Treasurer                  |
| 77 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 78 | For Attorney                   | For Attorney                   | For Attorney                   | For Attorney                   |
| 79 | General                        | General                        | General                        | General                        |
| 80 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |

|    |                                |                                |                                |                                |
|----|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| 81 | For                            | For                            | For                            | For                            |
| 82 | United States                  | United States                  | United States                  | United States                  |
| 83 | Representative                 | Representative                 | Representative                 | Representative                 |
| 84 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 85 | For State                      | For State                      | For State                      | For State                      |
| 86 | Senator                        | Senator                        | Senator                        | Senator                        |
| 87 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 88 | For State                      | For State                      | For State                      | For State                      |
| 89 | Representative                 | Representative                 | Representative                 | Representative                 |
| 90 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |
| 91 | For Circuit                    | For Circuit                    | For Circuit                    | For Circuit                    |
| 92 | Judge                          | Judge                          | Judge                          | Judge                          |
| 93 | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... | <input type="checkbox"/> ..... |

94           **4. No ballot printed or designed for use with an electronic voting**  
 95 **system for any partisan election held under this chapter shall allow a**  
 96 **person to vote a straight political party ticket. For purposes of this**  
 97 **subsection, a "straight political party ticket" means voting for all of the**  
 98 **candidates for elective office who are on the ballot representing a**  
 99 **single political party by a single selection on the ballot.**

100           **5.** The secretary of state shall promulgate rules that specify uniform  
 101 standards for ballot layout for each electronic or computerized ballot counting  
 102 system approved under the provisions of section 115.225 so that the ballot used  
 103 with any counting system is, where possible, consistent with the intent of this  
 104 section. Nothing in this section shall be construed to require the format specified  
 105 in this section if it does not meet the requirements of the ballot counting system  
 106 used by the election authority.

107           **[5.] 6.** Any rule or portion of a rule, as that term is defined in section  
 108 536.010, RSMo, that is created under the authority delegated in this section shall  
 109 become effective only if it complies with and is subject to all of the provisions of  
 110 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
 111 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
 112 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective  
 113 date or to disapprove and annul a rule are subsequently held unconstitutional,  
 114 then the grant of rulemaking authority and any rule proposed or adopted after  
 115 August 28, 2002, shall be invalid and void.

115.249. No voting machine shall be used unless it:

- 2           (1) Permits voting in absolute secrecy;

3 (2) Permits each voter to vote for as many candidates for each office as he  
4 is lawfully entitled to vote for, and no other;

5 (3) Permits each voter to vote for or against as many questions as he is  
6 lawfully entitled to vote on, and no more;

7 (4) Provides facilities for each voter to cast as many write-in votes for  
8 each office as he is lawfully entitled to cast;

9 (5) [Permits each voter at a general election to vote for all candidates of  
10 one party by use of a single lever or to vote a split ticket, as he desires;

11 (6)] Permits each voter in a primary election to vote for the candidates of  
12 only one party announced by the voter in advance;

13 [(7)] (6) Permits each voter at a presidential election to vote by use of a  
14 single lever for the candidates of one party or group of petitioners for president,  
15 vice president and their presidential electors;

16 [(8)] (7) Correctly registers or records and accurately counts all votes  
17 cast for each candidate and for and against each question;

18 [(9)] (8) Is provided with a lock or locks which prevent any movement of  
19 the voting or registering mechanism and any tampering with the mechanism;

20 [(10)] (9) Is provided with a protective counter or other device whereby  
21 any operation of the machine before or after an election will be detected;

22 [(11)] (10) Is provided with a counter which shows at all times during  
23 the election how many people have voted on the machine;

24 [(12)] (11) Is provided with a proper light which enables each voter,  
25 while voting, to clearly see the ballot labels;

26 [(13)] (12) Is provided with a mechanical model, illustrating the manner  
27 of voting on the machine, suitable for the instruction of voters.

115.439. 1. If paper ballots or ballot cards are used, the voter shall,  
2 immediately upon receiving his ballot, go alone to a voting booth and vote his  
3 ballot in the following manner:

4 (1) If the voter desires to vote [straight party ticket, he may place a cross  
5 (X) mark in the circle directly below the party name at the head of the column,  
6 or he may place cross (X) marks in the squares directly to the left of the names  
7 of candidates on one party ticket] **for a person whose name appears on the  
8 ballot, he or she may place a cross (X) mark in the square directly to  
9 the left of the name of the candidate for whom he desires to vote;**

10 (2) [If the voter desires to vote a split party ticket, he may place a cross  
11 (X) mark in the circle directly below one party name at the head of the column

12 and cross (X) marks in the squares directly to the left of the names of candidates  
13 on other party tickets, or he may place cross (X) marks in the squares directly to  
14 the left of the names of candidates on different party tickets;

15 (3) If the voter desires to vote for a person whose name does not appear  
16 on the ballot, he may cross out a name which appears on the ballot for the office  
17 and write the name of the person for whom he wishes to vote above or below the  
18 crossed-out name and place a cross (X) mark in the square directly to the left of  
19 the crossed-out name. If a write-in line appears on the ballot, he may write the  
20 name of the person for whom he wishes to vote on the line and place a cross (X)  
21 mark in the square directly to the left of the name;

22 [(4)] (3) If the ballot does not contain any party designations, the voter  
23 shall place a cross (X) mark in the squares directly to the left of the names of the  
24 candidates for whom he desires to vote;

25 [(5)] (4) If the ballot is one which contains no candidates, the voter shall  
26 place a cross (X) mark in the square directly to the left of each "yes" or "no" he  
27 desires to vote.

28 No voter shall vote for the same person more than once for the same office at the  
29 same election.

30 2. For purposes of this section, a punch or sensor mark or any other mark  
31 clearly indicating that the voter intends to mark that particular square shall be  
32 equivalent to a cross (X) mark.

33 3. If voting machines are used, the voter shall, immediately upon direction  
34 by the judges, go alone to a voting machine, close the curtain and vote in  
35 substantially the same manner provided in subsection 1 of this section. Rather  
36 than placing cross (X) marks on the ballot, however, the voter shall cause the  
37 designations to appear on the face of the voting machine, cast any write-in votes  
38 and register his votes as directed in the instructions for use of the machine.

39 4. If the voter accidentally spoils his ballot or ballot card or makes an  
40 error, he may return it to an election judge and receive another. The election  
41 judge shall mark "SPOILED" across the ballot or ballot card and place it in an  
42 envelope marked "SPOILED BALLOTS". After another ballot has been prepared  
43 in the manner provided in section 115.433, the ballot shall be given to the voter  
44 for voting.

45 5. The election authority may authorize the use of a sticker or other item  
46 containing a write-in candidate's name, in lieu of a handwritten name. All such  
47 stickers and items used by election authorities shall conform to rules and

48 regulations promulgated by the secretary of state regarding the form of such  
49 stickers and items. The secretary of state shall promulgate rules and regulations  
50 to prescribe uniform specifications for the form of such stickers and items. If  
51 authorized, such sticker or item shall contain a cross (X) mark, or other mark as  
52 described in subsection 2 of this section, in the square directly left of the  
53 candidate's name and the office for which the candidate is a write-in candidate.  
54 A write-in vote that does not meet the requirements of this subsection which  
55 appears on a ballot shall not be counted pursuant to sections 115.447 to 115.525.  
56 In those jurisdictions using an electronic voting system which utilizes mark sense  
57 or optical scan technology and if the election authority authorizes the use of  
58 stickers for write-ins, such system shall be programmed to identify and separate  
59 those ballots which contain an office in which write-in candidates are eligible to  
60 receive votes, and which contain less votes than a voter is entitled to cast. In  
61 addition, such sticker shall be considered "printed matter" as defined in  
62 subsection 8 of section 130.031, RSMo, and as such shall contain the designation  
63 required by subsection 8 of section 130.031, RSMo.

64           6. Any rule or portion of a rule, as that term is defined in section 536.010,  
65 RSMo, that is created under the authority delegated in this section shall become  
66 effective only if it complies with and is subject to all of the provisions of chapter  
67 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
68 536, RSMo, are nonseverable and if any of the powers vested with the general  
69 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date  
70 or to disapprove and annul a rule are subsequently held unconstitutional, then  
71 the grant of rulemaking authority and any rule proposed or adopted after August  
72 28, 2002, shall be invalid and void.

          115.449. 1. As soon as the polls close in each polling place using paper  
2 ballots, the election judges shall begin to count the votes. If earlier counting is  
3 begun pursuant to section 115.451, the election judges shall complete the count  
4 in the manner provided by this section. Once begun, no count shall be adjourned  
5 or postponed until all proper votes have been counted.

6           2. One counting judge, closely observed by the other counting judge, shall  
7 take the ballots out of the ballot box one at a time and, holding each ballot in  
8 such a way that the other counting judge may read it, shall read the name of each  
9 candidate properly voted for and the office sought by each. As each vote is called  
10 out, the recording judges shall each record the vote on a tally sheet. The votes  
11 for and against all questions shall likewise be read and recorded. [In a general

12 election, the counting judges may separate the straight party ballots from the  
13 split party ballots and first read one and then the other.] If more than one  
14 political subdivision or special district is holding an election on the same day at  
15 the same polling place and using separate ballots, the counting judges may  
16 separate the ballots of each political subdivision and special district and first read  
17 one set, then the next and so on until all proper votes have been counted.

18 3. After all of the proper votes on a ballot have been counted, the ballot  
19 shall be strung on a wire or string in the order read. After all the ballots have  
20 been read and strung and after the recording judges agree on the count, the wire  
21 or string shall be tied in a firm knot, and the knot shall be sealed so that it  
22 cannot be untied without breaking the seal. Rejected and spoiled ballots shall not  
23 be strung but shall be placed in separate containers marked "REJECTED" and  
24 "SPOILED".

25 4. After the recording of all proper votes, the recording judges shall  
26 compare their tallies. When the recording judges agree on the count, they shall  
27 sign both of the tally sheets, and one of the recording judges shall announce in  
28 a loud voice the total number of votes for each candidate and for and against each  
29 question.

30 5. After the announcement of the vote, the election judges shall record the  
31 vote totals in the appropriate places on each statement of returns. If any tally  
32 sheet or statement of returns contains no heading for any question, the election  
33 judges shall write the necessary headings on the tally sheet or statement of  
34 returns.

115.453. Election judges shall count votes for all candidates in the  
2 following manner:

3 (1) If a cross (X) mark appears in the [circle immediately below a party  
4 name at the head of a column, each candidate of the party shall be counted as  
5 voted for. If a cross (X) mark appears in the circle immediately below more than  
6 one party name, no candidate shall be counted as voted for, except a candidate  
7 before whose name a cross (X) mark appears in the square preceding the name  
8 and a cross (X) mark does not appear in the square preceding the name of any  
9 candidate for the same office in another column. If a cross (X) mark appears in  
10 the circle immediately below a party name at the head of a column, and a cross  
11 (X) mark appears in the square next to the name of any candidate in another  
12 column, each candidate of the party whose circle is marked shall be counted as  
13 voted for, except where a cross (X) mark appears in the square preceding the

14 name of any candidate in another column. Except as provided in this subdivision  
15 and subdivision (2) of this section, each candidate with a cross (X) mark in the  
16 square preceding his or her name shall be counted as voted for.

17 (2) If no cross (X) mark appears in the circle immediately below any party  
18 name, but a cross (X) mark does appear in the] square next to any candidate's  
19 name, the name of each candidate next to which a cross (X) mark appears shall  
20 be counted as voted for, and no other name shall be counted as voted for. If cross  
21 (X) marks appear next to the names of more candidates for an office than are  
22 entitled to fill the office, no candidate for the office shall be counted as voted for.  
23 If more than one candidate is to be nominated or elected to an office, and any  
24 voter has voted for the same candidate more than once for the same office at the  
25 same election, no votes cast by the voter for the candidate shall be counted.

26 [(3)] (2) No vote shall be counted for any candidate that is not marked  
27 substantially in accordance with the provisions of this section. The judges shall  
28 count votes marked substantially in accordance with this section when the intent  
29 of the voter seems clear. Regulations promulgated by the secretary of state shall  
30 be used by the judges to determine voter intent. No ballot containing any proper  
31 votes shall be rejected for containing fewer marks than are authorized by law.

32 [(4)] (3) Write-in votes shall be counted only for candidates for election  
33 to office who have filed a declaration of intent to be a write-in candidate for  
34 election to office with the proper election authority, who shall then notify the  
35 proper filing officer of the write-in candidate prior to 5:00 p.m. on the second  
36 Friday immediately preceding the election day; except that, write-in votes shall  
37 be counted only for candidates for election to state or federal office who have filed  
38 a declaration of intent to be a write-in candidate for election to state or federal  
39 office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on  
40 the second Friday immediately preceding the election day. No person who filed  
41 as a party or independent candidate for nomination or election to an office may,  
42 without withdrawing as provided by law, file as a write-in candidate for election  
43 to the same office for the same term. No candidate who files for nomination to  
44 an office and is not nominated at a primary election may file a declaration of  
45 intent to be a write-in candidate for the same office at the general election. When  
46 declarations are properly filed with the secretary of state, the secretary of state  
47 shall promptly transmit copies of all such declarations to the proper election  
48 authorities for further action pursuant to this section. The election authority  
49 shall furnish a list to the election judges and counting teams prior to election day

50 of all write-in candidates who have filed such declaration. This subdivision shall  
51 not apply to elections wherein candidates are being elected to an office for which  
52 no candidate has filed.

53 ~~[(5)]~~ (4) Write-in votes shall be cast and counted for a candidate without  
54 party designation. Write-in votes for a person cast with a party designation shall  
55 not be counted. Except for candidates for political party committees, no candidate  
56 shall be elected as a write-in candidate unless such candidate receives a separate  
57 plurality of the votes without party designation regardless of whether or not the  
58 total write-in votes for such candidate under all party and without party  
59 designations totals a majority of the votes cast.

60 ~~[(6)]~~ (5) When submitted to the election authority, each declaration of  
61 intent to be a write-in candidate for the office of United States president shall  
62 include the name of a candidate for vice president and the name of nominees for  
63 presidential elector equal to the number to which the state is entitled. At least  
64 one qualified resident of each congressional district shall be nominated as  
65 presidential elector. Each such declaration of intent to be a write-in candidate  
66 shall be accompanied by a declaration of candidacy for each presidential elector  
67 in substantially the form set forth in subsection 3 of section 115.399. Each  
68 declaration of candidacy for the office of presidential elector shall be subscribed  
69 and sworn to by the candidate before the election official receiving the declaration  
70 of intent to be a write-in, notary public or other officer authorized by law to  
71 administer oaths.

✓

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